IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 5255 OF 2007

Mr. O.K. Augusty .... Petitioner

versus

Gevan Florence ..... Respondent.

Ms. Seema Sarnaik for the petitioner
Ms. Sumangala for the respondent.

CORAM; A.P. DESHPANDE, J.
DATED; 18TH JULY, 2007

P.C.:

1. An order passed by the Family Court dated 24-4-2007 rejecting an application moved by the present petitioner/husband, seeking direction for engaging a tutor to privately coach the child of the parties by name Alison, has given raise to the filing of this writ petition. The petitioner and the respondent were earlier married and the marriage has been dissolved by a decree of divorce by mutual consent under the Special Marriage Act. Under the consent terms on the basis of which the marriage was dissolved, the custody of the child was to be with the father. However, on occurence of an incident in the year 2005, it is the case of the petitioner that the child had to be sent to the mother. However, according to the respondent mother the child was

driven out after being abused by the father. The matter is pending in the Family Court.

2. The main contention of the petitioner before the Family Court in support of the application was that the performance of the child in studies has been deteriorating on account of absence of proper private tuition and thus sought direction for engaging a private tutor. The Family Court has addressed the said issue and reached a conclusion that in the final examination of 8th standard of 2005-06 the child has secured 83% marks and was a topper in the class. It is then observed by the Family Court that in the second unit test held in January 2007 yet again the child has secured about the same percentage of marks. The trial court has found that there has been no deterioration in the educational standard of the child and hence rejected the application.

3. Perused the impugned order. The same does not call for any interferene in exercise of writ jurisdiction and hence writ petition is summarily dismissed.

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